

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**GREG J KUDRON**  
Claimant

**APPEAL NO. 09A-UI-11103-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COSTCO WHOLESALE CORPORATION**  
Employer

**Original Claim: 05/24/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated August 3, 2009, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 19, 2009. The claimant participated. The employer participated by Mike Minter, general manager West Des Moines store. The record consists of the testimony of Greg Kudron and the testimony of Mike Minter.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked as a part-time fork lift operator. On September 20, 2008, he submitted his two-week notice of resignation. The reason he was resigning his position was that he was relocating to a different locality. The employer accepted the claimant's resignation and did not discharge the claimant early. The effective date of the claimant's resignation was October 3, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(2) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The evidence is uncontroverted that the claimant voluntarily resigned his position with the employer to move to a different state. The employer accepted the claimant's resignation and the claimant worked from the date of his notice through his proposed resignation date. The employer did not discharge the claimant before the expiration of the notice period.

Iowa law states that if a worker voluntarily quits his job to move to another locality, he is presumed to have quit without good cause attributable to the employer. The claimant intended to sever the employment relationship and did so by submitting his resignation. Benefits are denied.

**DECISION:**

The representative's decision dated August 3, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw